

NOVEMBER 13, 2023

MICHAEL ELSTRO

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1	UNITED STATES DISTRICT COURT	A P P E A R A N C E S
2	FOR THE SOUTHERN DISTRICT OF NEW YORK	ON BEHALF OF THE PLAINTIFF KITCHEN WINNERS AND
3	- - - - - x	THIRD-PARTY DEFENDANTS ADORAMA INC., HERSHEY
4	KITCHEN WINNERS NY INC., : WEINER, AND JOSEPH MENDLOWITZ (VIA ZOOM):	ALEXANDER SPERBER, ESQUIRE
5	PLAINTIFF, : KIPSIUS BENHAIM LAW	KIPSIUS BENHAIM LAW
6	v. : CIVIL ACTION	80-02 KEW GARDENS ROAD, SUITE 1030
7	ROCK FINTEK LLC, : NO.	KEW GARDENS, NEW YORK 11415
8	DEFENDANT. : 22-cv-05276-PAE	212-981-8440
9	ROCK FINTEK LLC,	ASPERBER@LIPSIUSLAW.COM
10	COUNTERCLAIM AND	
11	THIRD-PARTY PLAINTIFF,	
12	v.	ON BEHALF OF THE DEFENDANT ROCK FINTEK LLC (VIA
13	KITCHEN WINNERS NY INC,	ZOOM):
14	COUNTERCLAIM DEFENDANT	PHILLIP RAKHUNOV, ESQUIRE
15	and	LAUREN RIDDLE, ESQUIRE
16	ADORAMA INC., HERSHEY WEINER,	POLLACK SOLOMON DUFFY LLP
17	JOSEPH MENDLOWITZ, JNS CAPITAL	485 MADISON AVENUE, SUITE 1301
18	HOLDINGS LLC AND JOEL STERN,	NEW YORK, NEW YORK 10022
19	THIRD-PARTY DEFENDANTS.	212-493-3100
20	- - - - - x	PRAKHUNOV@PSDFIRM.COM
21	REMOTELY CONDUCTED DEPOSITION OF	
22	MICHAEL ELSTRO	
23	MONDAY, NOVEMBER 13, 2023	
24	9:06 A.M. CST	
25	REPORTED BY: KARISA EKENSEAIR, MO CCR RMR #1507	
		Page 4
1	DEPOSITION OF MICHAEL ELSTRO, CONDUCTED VIA	A P P E A R A N C E S C O N T I N U E D
2	ZOOM VIDEOCONFERENCE WITH THE WITNESS LOCATED IN	ON BEHALF OF THIRD-PARTY DEFENDANTS JNS CAPITAL
3	MISSOURI.	LLC AND JOEL STERN (VIA ZOOM):
4		AVRAM FRISCH, ESQUIRE
5		THE LAW OFFICE OF AVRAME FRISCH LLC
6		1 UNIVERSITY PLAZA DRIVE, SUITE 119
7		HACKENSACK, NEW JERSEY 07601
8		201-289-5352
9		FRISCHA@AVIFRISCHLAW.COM
10		
11	Pursuant to notice, before Karisa J.	ON BEHALF OF THE RESOURCE GROUP AND THE
12	Ekenseair, Certified Shorthand Reporter in and for	DEPONENT (VIA ZOOM):
13	the State Missouri; National Registered	TAYLOR MATTHEWS, ESQUIRE
14	Professional Reporter; National Registered Merit	LEWIS RICE LLC
15	Reporter; Notary Public in and for the State of	600 WASHINGTON AVENUE, SUITE 2500
16	Arkansas.	ST. LOUIS, MISSOURI 63101
17		314-444-7600
18		TMATTHEWS@LEWISRICE.COM
19		
20		ALSO PRESENT:
21		THOMAS KATO
22		HERSHEY WEINER
23		SEPIDEH KHANSARI, THE RESOURCE GROUP
24		
25		

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T A B L E O F C O N T E N T S			Page 5	Page 7
		PAGE		
3	STYLE AND NUMBER.....	1	1	PROCEEDINGS
4	APPEARANCES.....	3	2	MIKE ELSTRO
5			3	of lawful age, being first duly sworn, deposes and
6	WITNESS: MIKE ELSTRO		4	says in reply to the questions propounded as
7	EXAMINATION BY MR. FRISCH.....	7	5	follows:
8	EXAMINATION BY MR. SPERBER.....	56	6	EXAMINATION
9	EXAMINATION BY MR. RAKHUNOV.....	63	7	BY MR. FRISCH:
10			8	Q Good morning, sir. My name is Avram
11	CERTIFICATE OF REPORTER.....	68	9	Frisch. I'm the attorney for third-party
12			10	defendants Joel Stern and JNS Capital Holdings
13			11	LLC. And I'm going to be asking you questions
14			12	here today regarding the litigation between Rock
15			13	Fintek LLC, my clients, and the clients of
16			14	Mr. Sperber who is the plaintiff in this action,
17			15	and some of the other third-party defendants.
18			16	Can you state your name and address for
19			17	the record, please? Your business address is
20			18	fine.
21			19	A Yes. My name is Michael Elstro. My
22			20	business address would be 2554 West Port Center
23			21	Drive, St. Louis, Missouri.
24			22	Q Thank you. Have you ever testified at a
25			23	deposition before?
			24	A No, sir. I have not.
			25	Q All right. So let me explain to what you
1				Page 6
2				Page 8
3				1 this is about.
4				2 During the course of the deposition, I and
5				3 my colleagues in the case will be asking you
6				4 questions about issues in the case. We've
7				5 negotiated with your counsel to limit the issues
8				6 to specific items, which I'm sure he'll remind me
9				7 when I stray beyond that.
10				8 You're answering under oath, as you know.
11				9 And you know, this is to be treated as the same as
12				10 if you were in a courtroom, right. Tell the truth
13				11 and, you know, and you cannot discuss the
14				12 questions and answers directly with your counsel
15				13 as they're ongoing.
16				14 If you need a break, please let me know.
17				15 As long as no question is pending, we'll be happy
18				16 to take a break whenever you need it.
19				17 If you don't understand a question, please
20				18 let me know and I'll repeat it or rephrase it.
21				19 Please speak your answers aloud so that the
22				20 stenographer can record all of your responses.
23				21 Please also don't do uh-huhs, yes, no, head -- not
24				22 yes -- I mean, uh-huh, yeah, something like that.
25				23 Use full words and no head nods so that the court
				24 reporter can take it down.
				25 Other than with your attorney, have you

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<p style="text-align: right;">Page 9</p> <p>1 discussed your testimony today with anyone?</p> <p>2 A I've had conversations with others within 3 the organization that were part of the transaction 4 that we had with Rock Fintek.</p> <p>5 Q Can you identify the specific people?</p> <p>6 A Yes. Dewayne Rader, then other people 7 from our operations community, Scott Hebsen and 8 Vince Moccio.</p> <p>9 Q What's your -- what's your job description 10 at The Resource Group?</p> <p>11 A Yes. My position title is, I'm senior 12 director of strategic sourcing for The Resource 13 Group.</p> <p>14 Q And what exactly does that -- does that 15 mean?</p> <p>16 A So on a day-in and day-out basis, the team 17 that I lead, we do contract terms and conditions 18 and price negotiations, specifically, my role with 19 medical device and medical product manufacturers.</p> <p>20 Q Okay. How much involvement did you have 21 with the day-to-day of the transactions with 22 Mr. Kato, Mhub, and Rock Fintek?</p> <p>23 A When The Resource Group was engaged with 24 Rock Fintek, I was dealing with them on a weekly, 25 if not daily, basis.</p>	<p>1 transactions.</p> <p>2 Q What documents were those?</p> <p>3 A I reviewed documents that I believe were 4 pulled and prepared and shared with all parties as 5 part of this lawsuit.</p> <p>6 Q Thank you. All right. Do you recall when 7 The Resource Group first entered into business 8 with Thomas Kato?</p> <p>9 A Yes, I do.</p> <p>10 MR. RAKHUNOV: Just note my objection for 11 the record to the form.</p> <p>12 BY MR. FRISCH:</p> <p>13 Q When was that?</p> <p>14 A We started interacting with Rock Fintek in 15 the beginning of the COVID-19 outbreaks, probably 16 around late February, early March of 2020.</p> <p>17 Q Okay. And at that point in time, were you 18 dealing with Rock Fintek LCC or another entity 19 owned by Mr. Kato, if you know?</p> <p>20 A So when we started interacting with them 21 when I got involved during the COVID-19 outbreak, 22 we were referring to them as MHub, as Merchant Hub 23 which is one of, I believe, Mr. Kato's other 24 businesses, but we also transacted under Rock 25 Fintek as well.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q Okay. Were you the decision-maker who 2 decided to award contracts to them or was that 3 somebody else?</p> <p>4 MR. MATTHEWS: Objection, beyond the scope 5 of the topics.</p> <p>6 But you may answer.</p> <p>7 THE WITNESS: I would say that I was 8 involved in the decision-making process and it was 9 a collective decision.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q All right. So are you currently taking 12 any medications or other substances today that 13 would affect your ability to testify truthfully?</p> <p>14 MR. MATTHEWS: Objection, beyond the 15 scope.</p> <p>16 You may answer.</p> <p>17 THE WITNESS: No, sir. I'm not.</p> <p>18 BY MR. FRISCH:</p> <p>19 Q Okay. Did you review any documents in 20 preparation for today?</p> <p>21 A I'm sorry, can you repeat the question?</p> <p>22 Q Did you review any document -- documents 23 prior to today's deposition?</p> <p>24 A Yes, I did review documents prior to 25 today -- today's deposition regarding the</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Did he ever into any agreements under the 2 name of MHub with you?</p> <p>3 A I cannot recollect if our purchase orders 4 physically had Rock Fintek or Merchant Hub on 5 them, to be honest with you.</p> <p>6 Q Okay. And from early in the pandemic, 7 what -- what do you recall purchasing from Rock 8 Fintek? I'm just going to use Rock Fintek as a 9 shorthand of any of Mr. Kato's entities at this 10 point.</p> <p>11 A Understood. Yes. So early on in COVID, 12 we created purchase orders and received from Rock 13 Fintek three-ply, KN-95s. We also received 14 isolation gowns from them outside of the nitrile 15 gloves in question today.</p> <p>16 Q Okay. How did you come to be introduced 17 to Rock Fintek?</p> <p>18 MR. MATTHEWS: Objection to the form; 19 beyond the scope of the deposition topics.</p> <p>20 But you may answer.</p> <p>21 THE WITNESS: I honestly do not know the 22 answer to that question. During COVID-19, there 23 were numerous vendors that were introduced to us 24 through all kinds of channels, so I'm -- I'm not 25 aware.</p>

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<p>1 BY MR. FRISCH:</p> <p>2 Q Do you know what you did to vet Rock</p> <p>3 Fintek's ability to sort of fulfill the terms of</p> <p>4 any agreement?</p> <p>5 MR. MATTHEWS: Objection to the form;</p> <p>6 beyond the scope the deposition topics.</p> <p>7 But you may answer, if you know.</p> <p>8 THE WITNESS: I do not.</p> <p>9 BY MR. FRISCH:</p> <p>10 Q Prior to the -- the purchase order for the</p> <p>11 gloves in question here, how much business had you</p> <p>12 done with Rock Fintek?</p> <p>13 A During the term of our engagement with</p> <p>14 Rock Fintek, we ordered and received close to</p> <p>15 \$24 million in other medical products, the</p> <p>16 three-ply masks, KN-95s, and isolation gowns.</p> <p>17 Q By the time you entered into the purchase</p> <p>18 order for the gloves, were all of those purchase</p> <p>19 orders fulfilled?</p> <p>20 A I don't recollect, like, what percentage</p> <p>21 had been fulfilled, but it was the vast majority</p> <p>22 of that.</p> <p>23 Q So the glove transaction, was that the</p> <p>24 last transaction you did with Rock Fintek?</p> <p>25 A I don't recollect. The isolation gowns</p>	Page 13	<p>1 they were seeking out gloves where they could</p> <p>2 across the world. Even the largest glove</p> <p>3 manufacturers in the world could not meet supply</p> <p>4 and demand.</p> <p>5 So specifically, we did not agree upon a</p> <p>6 certain brand of gloves that needed to be</p> <p>7 provided.</p> <p>8 Q Did you understand that Rock Fintek had</p> <p>9 gloves available, went to it, and -- strike that.</p> <p>10 When you entered into that purchase order,</p> <p>11 I think it was around December 2020, did</p> <p>12 you -- did you believe that Rock Fintek had gloves</p> <p>13 either on hand or had contracted firmly to get</p> <p>14 gloves to fulfill the purchase order?</p> <p>15 A No. I did not.</p> <p>16 Q You were aware that they had no gloves</p> <p>17 whatsoever at that moment?</p> <p>18 A That is correct.</p> <p>19 Q And what were the terms of the purchase</p> <p>20 order in terms of what were they supposed to</p> <p>21 supply you?</p> <p>22 A Yes. The purchase order was for 200</p> <p>23 million, so roughly \$37 million, 18-and-a-half</p> <p>24 cents per glove of ASTM D6319-rated nitrile exam</p> <p>25 gloves, FDA approved.</p>	Page 15
<p>1 that we purchased from them might have been made</p> <p>2 after the glove order. I don't recall.</p> <p>3 Q Who decided to give them this glove order</p> <p>4 for, I guess, close to \$40 million?</p> <p>5 MR. MATTHEWS: Object to the from; beyond</p> <p>6 the scope of the deposition topics.</p> <p>7 But you may answer.</p> <p>8 THE WITNESS: As previously stated, it was</p> <p>9 a group decision.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q Were you concerned that you were putting</p> <p>12 too many eggs in one basket when that decision was</p> <p>13 made?</p> <p>14 MR. MATTHEWS: Object the form; beyond the</p> <p>15 scope of the deposition topics.</p> <p>16 But you may answer.</p> <p>17 THE WITNESS: Based upon their performance</p> <p>18 of delivering products and our relationship to</p> <p>19 that point, I was not.</p> <p>20 BY MR. FRISCH:</p> <p>21 Q When you placed the order, were you buying</p> <p>22 a specific brand of gloves?</p> <p>23 A During COVID-19, gloves were in high</p> <p>24 demand and we had entertained creating purchase</p> <p>25 orders with multiple different providers. And</p>	Page 14	<p>1 Q Had you -- at that time, had you ever</p> <p>2 heard of Medcare brand gloves?</p> <p>3 A I don't recall.</p> <p>4 Q When did you first learn of Medcare as a</p> <p>5 brand?</p> <p>6 A My recollection of Medcare gloves, the</p> <p>7 first one I can recall, is when Brad Gilling sent</p> <p>8 over documentation on Medcare glove to The</p> <p>9 Resource Group to review.</p> <p>10 Q Do you recall when that was?</p> <p>11 A After the initial purchase order, but not</p> <p>12 this exact date. If I had to -- I'm not going to</p> <p>13 speculate.</p> <p>14 Q Okay. Was it in 2020 or in 2021?</p> <p>15 I'm -- if you don't know, that's okay.</p> <p>16 A It would have been in early 2021.</p> <p>17 Q Okay. Do you recall the delivery schedule</p> <p>18 for the gloves?</p> <p>19 A I recall that we laid out a delivery</p> <p>20 schedule.</p> <p>21 Q Do you recall whether Fintek met the</p> <p>22 delivery schedule?</p> <p>23 A I would say that Rock Fintek did not meet</p> <p>24 the original delivery schedule that was laid out.</p> <p>25 But from day one, we knew that it would be tough</p>	Page 16

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<p>1 to meet that delivery schedule based upon the 2 current supply chain conditions across the world. 3 Q And what brands of gloves did Rock Fintek 4 ultimately deliver? 5 A Rock Fintek delivered Medcare gloves as 6 part of our \$200 million glove order. 7 Q Did they deliver any other brands? 8 A There was another brand of glove by the 9 name of LuvMed that they delivered as well. 10 Q Any others? 11 A Not that I can recall at this time. 12 Q Do you recall when you first received the 13 Medcare gloves from Rock Fintek? 14 A I don't recall when we received the first 15 shipment of gloves from Rock Fintek. When they 16 started coming in, they were coming in hot and 17 heavy. And we're talking about lots and lots of 18 truckloads of deliveries. 19 Q Do you know if essentially The Resource 20 Group bought Medcare gloves from any other vendor? 21 MR. MATTHEWS: Object to the form of the 22 question; and it's beyond the scope of the 23 deposition topics. 24 But you may answer, if you know. 25 THE WITNESS: I do not recall. We bought</p>	<p>1 A Yes. I have reviewed gloves. 2 Q What did you do to examine them? 3 MR. MATTHEWS: And Avi, this is just to 4 clarify. Are you talking specifically about the 5 Medcare gloves? 6 MR. FRISCH: Yes. 7 BY MR. FRISCH: 8 Q Specifically about the Medcare gloves. 9 A I had a box, a sample box, that was sent 10 to me after the \$200 million were delivered of a 11 potential replacement, Medcare glove was delivered 12 to my household. 13 Q Okay. Were -- did you ever get those 14 replacement Medcare gloves? 15 A No. We have never received replacement 16 gloves. 17 Q Did you ever examine the shipments of 18 gloves prior to their delivery to Resource Group? 19 A We did not examine the gloves prior to 20 delivery to our distributor who held the gloves 21 and is still holding the gloves. 22 Q Did you ever do anything to examine the 23 gloves after they were delivered to your 24 distributor? 25 A I personally did not, but we have had</p>	
	Page 18	Page 20
<p>1 many glove brands during COVID-19. 2 BY MR. FRISCH: 3 Q And how many -- how many vendors did you 4 have for gloves during the period from 5 February '21 through June 2021? 6 MR. MATTHEWS: Object to form; beyond the 7 scope of the deposition topics. 8 But you may answer, if you know. 9 THE WITNESS: I would -- I have no idea at 10 this point in time. 11 BY MR. FRISCH: 12 Q But it wasn't only Rock Fintek at that 13 time? 14 A We purchased gloves from other suppliers 15 outside of Rock Fintek. 16 Q And are any of those suppliers currently 17 supplying you now? 18 MR. MATTHEWS: Object to form; beyond the 19 scope the deposition topics. 20 But you may answer, if you know. 21 THE WITNESS: Yes. 22 BY MR. FRISCH: 23 Q Okay. When you purchased these gloves, 24 did you do any examination of the gloves either 25 before or after they were delivered?</p>	<p>1 numerous clinicians, members of the Ascension's 2 infection prevention team, we've had independent 3 third-party testing, and Medline, probably one of 4 if not the largest glove manufacturer in the 5 world, review and examine the gloves. 6 Q And of those examinations, what did they 7 find? 8 MR. MATTHEWS: Sorry, Avi. Can you -- can 9 you repeat the -- 10 THE WITNESS: Yeah. 11 MR. RAKHUNOV: Same. 12 BY MR. FRISCH: 13 Q I said, of those examinations, what did 14 they find in those examinations? 15 A So we found multiple things with the 16 examinations of the gloves. 17 So when the gloves started triculating out 18 to our healthcare providers across the country, we 19 received numerous complaints from the gloves from 20 people that have never met each other, never 21 talked to each other before, markets like 22 Birmingham, Alabama; Austin, Texas; Chicago, 23 Illinois; all over the country: Complaints that 24 the gloves were tearing, complaints that fluids 25 were seeping through the gloves, complaints that</p>	

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<p>1 the cuffs around the gloves were too large and 2 loose, complaints that the sizing of the gloves 3 did not represent what was listed on the box. For 4 example, there might be large-size gloves in a box 5 that was labeled as small.</p> <p>6 We had independent third-party testing 7 conducted by Akron Rubber Development Lab to look 8 at the elongation and tensile strength of the 9 gloves. We pulled eight independent separate lots 10 from the 200 million. The test determined that 11 none of the gloves passed for elongation and 12 tensile testing in relation to ASTM D6319 13 regulations.</p> <p>14 We also had three separate lots of Medcare 15 gloves tested, chemical tested, and they were 16 determined by -- by Akron Rubber Development Lab 17 as well, and they were determined not to be 18 nitrile based upon the chemical testing.</p> <p>19 Q All three of them were determined not to 20 be nitrile?</p> <p>21 A Two of the three lots were determined not 22 to be nitrile as part of that chemical testing. 23 The third lot was a sample that was brought 24 forward as a potential replacement glove. The two 25 lots that failed were part of the 200 million</p>	Page 21	<p>1 that the numbers from the elongation and tensile 2 testing were significantly superior to the Medcare 3 gloves.</p> <p>4 BY MR. FRISCH:</p> <p>5 Q Why wasn't some sort of testing done at 6 the beginning of the receipt of these gloves?</p> <p>7 MR. MATTHEWS: Object to form; beyond the 8 scope the deposition topics.</p> <p>9 But you may answer, if you know.</p> <p>10 THE WITNESS: So during COVID-19, as we're 11 all aware of watching the news, PPE was in high 12 demand and not being supplied. Companies did not 13 have safety stock in the United States and product 14 was in high demand.</p> <p>15 So we had been provided documentation by 16 Rock Fintek that the gloves were ASTM D6319-rated. 17 They were nitrile gloves. And we had also been 18 provided documents that had Kitchen Winners' name 19 on it that stated that the gloves were nitrile.</p> <p>20 And so based upon all representations, we 21 decided to let those gloves to our healthcare 22 providers because we were not getting our daily 23 needs in gloves shipments from our day-to-day 24 suppliers.</p> <p>25 BY MR. FRISCH:</p>	Page 23
<p>1 gloves that were shipped to us.</p> <p>2 Q How did you determine which lots to have 3 tested for their chemical composition?</p> <p>4 A They were randomly selected from the 5 warehouses where the gloves were being stored.</p> <p>6 Q Isn't it true you tested eight -- eight 7 lots of gloves for tensile strength and elongation 8 but only two for chemical compensation? Why is 9 that?</p> <p>10 A I don't recall.</p> <p>11 Q Was it because you thought some of them 12 would pass and, therefore, wanted to not have 13 testing that shows them passing that exam?</p> <p>14 A I'll repeat, I don't recall.</p> <p>15 Q Okay. Isn't it true that Medline's gloves 16 also failed the elongation test that Akron Rubber 17 did?</p> <p>18 A We did decide to test a --</p> <p>19 MR. MATTHEWS: Really quick, just to 20 interrupt, I'll let my continue objections, this 21 is beyond the scope of the topics.</p> <p>22 Go ahead, Mike.</p> <p>23 THE WITNESS: We did decide to test a 24 Medline glove sample as well for the elongation 25 and tensile. While it did not pass, I will state</p>	Page 22	<p>1 Q Do you know when you first disputed the 2 Medcare gloves to your facilities?</p> <p>3 A I don't recall.</p> <p>4 Q How long -- do you recall how long after 5 you first started receiving them, like an 6 approximate number of days?</p> <p>7 A I do not recall.</p> <p>8 Q Do you know how many of those gloves were 9 actually used by providers?</p> <p>10 MR. MATTHEWS: Object to form; beyond the 11 scope the deposition topics.</p> <p>12 But you may answer, if you know.</p> <p>13 THE WITNESS: I don't know for sure. I 14 know that we are left about 196 -- well, we were 15 shipped about 196 million of those, and the vast 16 majority did not make it out to our healthcare 17 providers. And what was shipped into our 18 healthcare providers eventually was quarantined 19 and pulled to the side because it could not be 20 utilized.</p> <p>21 BY MR. FRISCH:</p> <p>22 Q Do you recall when you first received 23 complaints about the gloves?</p> <p>24 A Early July of 2021.</p> <p>25 Q And there was no use that you could have</p>	Page 24

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<p>1 put the gloves so that would have been at least a 2 way to use them up?</p> <p>3 MR. MATTHEWS: Object to the form; beyond 4 the scope of the deposition topics.</p> <p>5 But you may answer, if you know.</p> <p>6 THE WITNESS: So healthcare providers 7 depend upon PPE, right. It is their livelihood, 8 right, to protect them from bodily fluids, waste. 9 And when that comes into question, we can't take 10 that risk. You're putting people's lives at 11 potential risk by utilizing product that is 12 counterfeit and ineffective.</p> <p>13 BY MR. FRISCH:</p> <p>14 Q Well, let's ask that: What makes you say 15 that the gloves were counterfeit?</p> <p>16 A I would say that the gloves were 17 counterfeit because they did not meet the 18 specifications and representations that The 19 Resource Group was provided. It clearly articulates 20 on our purchase orders that the gloves should be 21 ASTM D6319-rated, that they should be nitrile 22 gloves, they should be FDA approved.</p> <p>23 And based upon the representations that 24 were provided to us from Rock Fintek and had 25 Kitchen Winners name on it, I mean, the boxes</p>	Page 25	<p>1 MR. RAKHUNOV: Yeah. Note my objection to 2 form as well.</p> <p>3 THE WITNESS: The Resource Group and 4 Ascension don't care what the contract says 5 between Rock Fintek and Kitchen Winners or JNS 6 Capital. Our contract stated that there should be 7 ASTM D6319-rated nitrile gloves, FDA approved, and 8 the gloves are not.</p> <p>9 BY MR. FRISCH:</p> <p>10 Q Did you -- were you ever in communication 11 with Medcare directly?</p> <p>12 A I was part of one conference call with 13 individuals that were, I'm told, part of Medcare. 14 I've met them one time on a conference call.</p> <p>15 Q Because you said they were counterfeit 16 gloves, do you have any reason to believe that 17 these gloves were not shipped by Medcare and not 18 manufactured by Medcare?</p> <p>19 MR. MATTHEWS: Object to form; beyond the 20 scope of the topics.</p> <p>21 But you may answer, if you know.</p> <p>22 THE WITNESS: I can't speculate on that.</p> <p>23 BY MR. FRISCH:</p> <p>24 Q Were there any gloves that were good 25 in -- in the 200 million gloves, did you figure</p>	Page 27
<p>1 state -- even the outside of the boxes state 2 nitrile on them, the outer box and the inner box, 3 and that is not the case.</p> <p>4 Q Well, you -- you had two boxes examined, 5 right, for whether or not they were nitrile; isn't 6 that correct?</p> <p>7 MR. RAKHUNOV: Avi, I'm sorry, can you 8 just please speak up a little? You trail off at 9 the end of your question.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q I said you had two boxes examined to 12 determine if they were nitrile; is that correct?</p> <p>13 A So that's not what I said. I said the 14 gloves were not ASTM D6319-rated. The gloves did 15 not pass elongation and tensile testing. 16 Therefore, they're not -- they did not meet the 17 requirement to be an ASTM D6319 nitrile glove.</p> <p>18 Q Would it surprise you to learn that the 19 contract between Rock Fintek and JNS and Joel 20 Stern did not -- did not reference ASTM D6319?</p> <p>21 MR. MATTHEWS: I'm going to object to the 22 form. I'm going to object that it's beyond the 23 scope of the deposition topics. And I will object 24 based upon foundation, or lack thereof.</p> <p>25 Subject to that, you may answer, Mike.</p>	Page 26	<p>1 out if there was any that were usable?</p> <p>2 A I don't know if any of the gloves were 3 good. What I do know is that we cannot trust that 4 the 200 million gloves or 196 million that we 5 received some are good and some are not. We can't 6 put that on a healthcare provider to send gloves 7 in and say open the box and see if you think these 8 are good enough. They don't have time to do that. 9 If you're ever in a healthcare setting, 10 folks are running to grab gloves sometimes to take 11 care of their patients. We cannot put that burden 12 on healthcare providers.</p> <p>13 Q Once you discovered the issues with the 14 gloves, did you request that Rock Fintek give you 15 a replacement?</p> <p>16 A The Resource Group has asked that Rock 17 Fintek make us whole on the situation. I believe 18 there's a Lewis & Rice letter that was sent to 19 Rock Fintek in March of 2022 that lays out our 20 requests or demands of Rock Fintek, that we be 21 made whole on the order that was received, so the 22 196 million gloves, close to \$37 million; not to 23 mention the fact that we have well north of 24 \$2 million in holding costs for these gloves at 25 this point in time and that continues to grow, and</p>	Page 28

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<p>1 other damages.</p> <p>2 Q And what was their response to that?</p> <p>3 A I do not know.</p> <p>4 Q I'm going to call up the letter. Did it</p> <p>5 pop up? That was labeled at, I think, Mr. Kato's</p> <p>6 deposition as JNS A -- Exhibit A.</p> <p>7 Is this the letter you were referring to?</p> <p>8 MR. MATTHEWS: Mike, are you able to click</p> <p>9 through it?</p> <p>10 THE WITNESS. Yes, sir.</p> <p>11 That looks like the letter. I'm just --</p> <p>12 sorry, I'm just trying to make -- blow it up and</p> <p>13 just make sure that --</p> <p>14 BY MR. FRISCH:</p> <p>15 Q You can -- you can control --</p> <p>16 A Yes.</p> <p>17 Q -- the size and the scrolling --</p> <p>18 A Yes.</p> <p>19 Q -- on your own screen.</p> <p>20 A Yep. Yes, sir. I understand.</p> <p>21 Yes. That is the letter.</p> <p>22 Q Do you happen to know why your attorney</p> <p>23 believed that Rock Fintek LLC was not formed until</p> <p>24 May 1st, 2021?</p> <p>25 MR. MATTHEWS: Object to form; and calls</p>	Page 29	<p>1 Medcare gloves?</p> <p>2 A I don't recall specifically. Although, I</p> <p>3 do recall we had -- we had multiple conversations</p> <p>4 with Rock Fintek when they thought that they had</p> <p>5 found a provider that could fulfill the order, but</p> <p>6 I don't recall all those different brands of</p> <p>7 gloves.</p> <p>8 Q Okay. What -- when you first discovered</p> <p>9 the gloves were bad, did -- when did you first ask</p> <p>10 Rock Fintek to replace the gloves or to make you</p> <p>11 whole?</p> <p>12 A We brought it to their attention in July</p> <p>13 of '21, that the gloves were bad and we needed to</p> <p>14 find resolution and find replacement gloves.</p> <p>15 Q And what was -- what was their response in</p> <p>16 July of 2021?</p> <p>17 MR. RAKHUNOV: Objection. Go ahead.</p> <p>18 THE WITNESS: We had -- we had multiple</p> <p>19 conversations with Rock Fintek. I think at first</p> <p>20 they believed that we had received good gloves.</p> <p>21 But as time went on in the conversation and they</p> <p>22 went out and they started looking at the gloves at</p> <p>23 the Medline warehouses, they understood that we</p> <p>24 had a situation on our hands.</p> <p>25 BY MR. FRISCH:</p>	Page 31
<p>1 for a disclosure of attorney-client</p> <p>2 communications.</p> <p>3 So I will instruct the witness not to</p> <p>4 answer as to what his knowledge of his attorney's</p> <p>5 belief is.</p> <p>6 MR. FRISCH: Okay. Let me rephrase that</p> <p>7 without reference.</p> <p>8 BY MR. FRISCH:</p> <p>9 Q Do you know, without reference to any</p> <p>10 conversations with any of your attorneys, if Rock</p> <p>11 Fintek LLC was not formed until May 1st, 2021?</p> <p>12 A I'm sorry, can you repeat the last part of</p> <p>13 your question? You've asked -- I'm having issues</p> <p>14 hearing you at the end.</p> <p>15 Q Sorry. I'll get a little closer to the</p> <p>16 screen.</p> <p>17 Do you know, without reference to</p> <p>18 conversations with your attorneys which I don't</p> <p>19 want to know about, do you know if Rock Fintek LLC</p> <p>20 was only formed on May 1, 2021, as noted in the</p> <p>21 footnote in this letter?</p> <p>22 A I'm not aware.</p> <p>23 Q Okay. Did Rock Fintek ever offer you</p> <p>24 another brand of gloves during the period, let's</p> <p>25 say around April 2021, in -- in lieu of the</p>	Page 30	<p>1 Q Another document, this had also previously</p> <p>2 been marked at Mr. Kato's deposition as JNS</p> <p>3 Exhibit F.</p> <p>4 And here, Mr. Kato writes -- I'm trying to</p> <p>5 find the line I want you to look at. In -- if</p> <p>6 you -- well, just read through this -- this</p> <p>7 e-mail. I know you're not copied on it, but maybe</p> <p>8 you're familiar with it anyway.</p> <p>9 Just read through it quickly and then I'll</p> <p>10 ask my question.</p> <p>11 A Okay. Please give me just a couple of</p> <p>12 minutes.</p> <p>13 (Off-the-record discussion.)</p> <p>14 MR. FRISCH: All right. Are we back on</p> <p>15 the record?</p> <p>16 BY MR. FRISCH:</p> <p>17 Q Michael, you ready? You read it or</p> <p>18 you still --</p> <p>19 A I did. I was having problems trying to</p> <p>20 read it when you guys were talking --</p> <p>21 Q Oh, sorry --</p> <p>22 A -- so if you guys can give me a couple</p> <p>23 minutes of silence --</p> <p>24 Q Sure.</p> <p>25 A -- I'd appreciate it. Thank you.</p>	Page 32

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<p>1 THE REPORTER: Would we like to go off the 2 record?</p> <p>3 MR. RAKHUNOV: Yeah. Let's go off the 4 record for two minutes.</p> <p>5 (Whereupon a break was had.)</p> <p>6 BY MR. FRISCH:</p> <p>7 Q Have you ever seen this document before?</p> <p>8 A No, sir. I have not.</p> <p>9 Q In the middle, it says in -- later in 10 February and March, we were able to secure 11 pre-pandemic brand gloves like Kimberly Clark, 12 Intco, and others. These name brands would have 13 cost us less to purchase but we did not. Vince 14 told us not to. He said Medcare gloves are in all 15 the hospitals and they are very happy with them 16 and it's more work to input a new product.</p> <p>17 Were you aware of this conversation that 18 Mr. Kato says occurred?</p> <p>19 MR. MATTHEWS: Objection to the form; 20 beyond the scope of the deposition notice.</p> <p>21 But you may answer, if you know.</p> <p>22 THE WITNESS: I'm not aware of that.</p> <p>23 BY MR. FRISCH:</p> <p>24 Q Are you aware of any -- if I told you 25 Vince said this, is that -- would that have</p>	<p>Page 33</p> <p>1 the scope of the deposition notice.</p> <p>2 But subject to that, you may answer, if 3 you know.</p> <p>4 THE WITNESS: Unfortunately, I don't 5 remember the cost of every glove that we purchased 6 during COVID-19. As I stated, they were -- they 7 were ranging from 15 to \$0.20 a glove.</p> <p>8 BY MR. FRISCH:</p> <p>9 Q Did Rock Fintek ever replace a single 10 glove?</p> <p>11 A To my knowledge, Rock Fintek has not 12 replaced any of the 196 million-ish gloves that 13 we -- we, The Resource Group, have received.</p> <p>14 Q Did Rock Fintek refund any money?</p> <p>15 A To my knowledge, we have not received any 16 reimbursement refunds of the close to \$37 million 17 plus the holding costs and other damages as part 18 of this.</p> <p>19 Q Did Rock Fintek do anything to make the 20 situation better on your end?</p> <p>21 MR. RAKHUNOV: Objection.</p> <p>22 THE WITNESS: The situation is unresolved 23 on our end. We still have purchased 196 million 24 gloves, close to \$37 million, holding costs, and 25 other damages. And we have not recouped any of</p>
<p>1 been -- strike that.</p> <p>2 I guess, just to be clear, are you -- do 3 you think there's any truth to Mr. Kato's 4 statement here?</p> <p>5 MR. MATTHEWS: Object to the form; beyond 6 the scope of the deposition notice; calls for 7 speculation.</p> <p>8 Subject to that, you may answer.</p> <p>9 MR. RAKHUNOV: Objection.</p> <p>10 THE WITNESS: We bought -- we bought 11 gloves from the other providers listed. And when 12 I say from them, not from them, but from middle -- 13 middlemen, right, that were selling those gloves.</p> <p>14 We had Kimberly Clark, Intco. We had multiple 15 brands of gloves we purchased during COVID-19.</p> <p>16 And I can tell you the going rate for 17 gloves was very high. We buy gloves 18 two-and-a-half, \$0.03 a day. Gloves were going 19 for 15 to close to \$0.20 a glove during COVID-19.</p> <p>20 BY MR. FRISCH:</p> <p>21 Q Do you happen to recall if Kimberly Clark 22 gloves were more or less expensive than the 23 Medcare gloves you brought from Rock Fintek at 24 that point in time?</p> <p>25 MR. MATTHEWS: Object to the form; beyond</p>	<p>Page 34</p> <p>1 that today.</p> <p>2 BY MR. FRISCH:</p> <p>3 Q And you testified you're still holding 4 them at the Medline distribution center?</p> <p>5 MR. MATTHEWS: Object to the form. That's 6 beyond the scope of this deposition notice.</p> <p>7 Subject to that, if you have personal 8 knowledge, you may answer.</p> <p>9 THE WITNESS: I'm not -- so my day-to-day 10 role, I'm not directly tied into, like, the 11 holding of the gloves and distributing them. I do 12 know that Ascension, so the parent organization of 13 The Resource Group, has donated a good number of 14 the gloves, but we are still holding a substantial 15 amount, over half of the order, at Medline 16 distribution centers.</p> <p>17 BY MR. FRISCH:</p> <p>18 Q Do you know how much you paid Rock Fintek 19 in total for the Medcare gloves?</p> <p>20 A It was -- we paid Rock Fintek what we had 21 been invoiced for, so it was close to 100 -- 196 22 million at the 18-and-a-half cents per glove.</p> <p>23 They invoiced us -- every time that we received an 24 order, Medline checked it, sent us a notice it was 25 received. Rock Fintek would send us an individual</p>

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<p>1 invoice and we would pay it.</p> <p>2 Q But you're not aware of the total sitting</p> <p>3 here today?</p> <p>4 A I don't know the exact total. As I said, 5 it's close to \$37 million.</p> <p>6 Q What -- had these gloves be acceptable,</p> <p>7 what is the likelihood that Rock Fintek would have</p> <p>8 gotten another contract from The Resource Group?</p> <p>9 A I -- so I'll -- I'll answer, but it's kind 10 of speculative at this point in time, like, what 11 it would have been. And I'll address it from two 12 different angles. So I'll approach it from a 13 short-term and long-term perspective.</p> <p>14 So short term, while we were in the midst 15 of COVID-19, I think it's highly likely that we 16 would have continued to engage with Rock Fintek in 17 additional business opportunities. There were 18 other needs that came up. It was like playing 19 Whac-A-Mole, right. You didn't know day-to-day, 20 week-to-week, what our medical supply needs would 21 be.</p> <p>22 So you know, it was gloves when we made 23 the glove purchase. But, you know, there was a 24 run where people were having issues getting bent 25 metal, things like wheelchairs and walkers,</p>	Page 37	<p>1 Medline, that we continued to buy during COVID-19 2 and we continue today.</p> <p>3 BY MR. FRISCH:</p> <p>4 Q Was there any effort -- was there ever a</p> <p>5 time where somebody would have told Thomas Kato</p> <p>6 that he would have the ability to bid for a</p> <p>7 contract for gloves in the future?</p> <p>8 MR. MATTHEWS: Avi, can you repeat that?</p> <p>9 I'm sorry, we're having a hard time listening --</p> <p>10 MR. FRISCH: Sorry. Every time I sit 11 back, it's a little bit --</p> <p>12 MR. MATTHEWS: That's okay.</p> <p>13 MR. FRISCH: Sorry about that.</p> <p>14 BY MR. FRISCH:</p> <p>15 Q Was there ever a time where Mr. Kato would</p> <p>16 have told by somebody at The Resource Group to</p> <p>17 your knowledge that he was able to bid on a</p> <p>18 contract for gloves going forward?</p> <p>19 A So I talked about the short-term potential 20 business earlier. The long-term potential 21 business was a conversation that Rock Fintek had 22 brought forward to The Resource Group. Obviously, 23 they wanted to continue a business relationship, 24 potentially get into the medical supplies 25 business.</p>	Page 39
<p>1 crutches and canes, right.</p> <p>2 We reached out to the suppliers that we 3 had been dealing with during COVID-19 and said, 4 can you source any of these. So an opportunity 5 like that is something like Rock Fintek would have 6 missed out upon. Because once we received the 7 counterfeit gloves, we did not reach out to them 8 to do any more additional business.</p> <p>9 Q Okay. Was there any -- who was your --</p> <p>10 your regular provider of gloves prior to the</p> <p>11 pandemic?</p> <p>12 MR. MATTHEWS: Object to form; beyond the 13 scope of the deposition notice.</p> <p>14 Subject to that, you may answer, if you 15 know.</p> <p>16 THE WITNESS: So prior to COVID-19, we 17 were utilizing Medline for the vast majority of 18 our nitrile exam gloves business.</p> <p>19 BY MR. FRISCH:</p> <p>20 Q And have you returned to Medline at this</p> <p>21 point in time?</p> <p>22 MR. MATTHEWS: Object to the form; beyond 23 the scope of the notice.</p> <p>24 But subject to that, you may answer.</p> <p>25 THE WITNESS: I'd state that we never left</p>	Page 38	<p>1 I don't recall directly having those 2 conversations with Tommy Kato or -- or Brad, but I 3 can tell you that I know Todd Adams who was at the 4 time our chief operating officer and Dewayne Rader 5 who is our vice president for -- for supply chain, 6 both individuals had conversations with Tommy and 7 they -- and told me that they had conversations 8 with Tommy about that.</p> <p>9 The conversations really were around the 10 fact of if they would -- they need to clear some 11 major hurdles to do that, we would have 12 discussions with them, just like we would other 13 suppliers. But to get into that medical space, 14 supply space, Todd and Dwayne let Rock Fintek 15 know, one, you've got to go through all the FDA 16 approvals, right. And that is no small hurdle.</p> <p>17 And two, you're also dealing with -- when 18 you talk about gloves and PPE and masks, you're 19 talking about some ginormous companies and 20 organizations that they would have to get very 21 competitive on price.</p> <p>22 So there were a couple of big hurdles 23 there, but if they were willing to clear those, 24 then we would certainly talk to them. But they 25 would have to look at winning the business. It</p>	Page 40

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<p>1 wasn't just going to be given to them.</p> <p>2 Q But there was no specific bid or contract</p> <p>3 that they were told that they had a chance at that</p> <p>4 moment in time?</p> <p>5 MR. RAKHUNOV: Objection.</p> <p>6 THE WITNESS: That is correct. We never</p> <p>7 talked to them about a specific, like, long-term</p> <p>8 contract or bidding on a long-term nitrile glove</p> <p>9 business for the organization. That is correct.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q At this point in time, have the COVID-19</p> <p>12 pandemic shortages largely cleared up or are there</p> <p>13 still areas where -- where you -- you fall upon a</p> <p>14 shortage?</p> <p>15 MR. MATTHEWS: Object to form; beyond the</p> <p>16 scope of the topics in the deposition.</p> <p>17 Subject to that, you may answer, Mike.</p> <p>18 THE WITNESS: I -- I'd state that things</p> <p>19 have certainly settled down. They're nowhere like</p> <p>20 they were back in 2020 and 2021.</p> <p>21 There's still some blips in supply chain,</p> <p>22 but -- but nowhere like it was going back three</p> <p>23 years ago.</p> <p>24 BY MR. FRISCH:</p> <p>25 Q All right. I think I want to ask about</p>	Page 41	<p>1 know.</p> <p>2 THE WITNESS: I don't -- I don't believe</p> <p>3 seeing that photo of Prince William and Harry had</p> <p>4 any influence on us to sign to buy gloves from</p> <p>5 them.</p> <p>6 BY MR. FRISCH:</p> <p>7 Q Did the description of 200 million gloves</p> <p>8 from Hartalega Paloma in here, was that -- was</p> <p>9 that part of your reason for going with Mr. Kato</p> <p>10 at that point in time, the description of the</p> <p>11 relationship he had with this Malaysian company?</p> <p>12 A Rock Fintek stated that they could procure</p> <p>13 200 million gloves, and we were in need of</p> <p>14 purchasing gloves. So based upon his</p> <p>15 representations that they could provide gloves to</p> <p>16 us, I would say yes, that was part of the reason</p> <p>17 why we decided to order with Rock Fintek.</p> <p>18 Q And initially, were you expecting delivery</p> <p>19 of Hartalega Paloma gloves when you placed the</p> <p>20 order?</p> <p>21 A Yes. At the onset, I would say that they</p> <p>22 had represented that we would be delivered to</p> <p>23 Hartalega gloves, but I -- but I'll also say that</p> <p>24 Rock Fintek was not the first organization that we</p> <p>25 had ordered gloves from where we cut a purchase</p>	Page 43
<p>1 this. One second.</p> <p>2 Now, I'm just going through some of the</p> <p>3 documents that I marked, but for some</p> <p>4 reason -- give me a second. I apologize. I</p> <p>5 premarked this one for today as JNS Ascension</p> <p>6 Exhibit 1.</p> <p>7 (Exhibit JNS-Ascension 1 marked for</p> <p>8 identification.)</p> <p>9 BY MR. FRISCH:</p> <p>10 Q If you could take a look at the -- I did</p> <p>11 publish it, I think, so you can just quickly</p> <p>12 glance through it.</p> <p>13 You are copied, I will note, on this -- on</p> <p>14 this thread. Let me know when you're ready.</p> <p>15 A I've reviewed the document.</p> <p>16 Q Do you recall this -- this conversation?</p> <p>17 A Yes. I recall this e-mail.</p> <p>18 Q Okay. Did the photo meeting -- I didn't</p> <p>19 take the one with the photos of the princes of</p> <p>20 England, but did -- did that have any impact on</p> <p>21 your desire to do business with Mr. Kato at that</p> <p>22 time?</p> <p>23 MR. MATTHEWS: Object to form; beyond the</p> <p>24 scope of the agreed-upon deposition notice topics.</p> <p>25 Subject to that, you may answer, if you</p>	Page 42	<p>1 order and a company had a lead on gloves, told us</p> <p>2 they had a lead on gloves and then they got outbid</p> <p>3 or it wasn't what they thought it was and we had</p> <p>4 to switch providers of gloves.</p> <p>5 Q When -- when did you become aware that</p> <p>6 they could not get these gloves?</p> <p>7 A I don't recall the exact date. If I had</p> <p>8 to guess, I would say early 2021.</p> <p>9 Q Were you aware that \$6 million of money</p> <p>10 that you had deposited with Rock Fintek had been</p> <p>11 wired to Malaysia as a deposit on these gloves?</p> <p>12 MR. MATTHEWS: Object to form; beyond the</p> <p>13 scope of the deposition topics.</p> <p>14 But you may answer.</p> <p>15 THE WITNESS: I was not aware that money</p> <p>16 had been wired as part of this. I can tell you</p> <p>17 during COVID-19, some manufacturers asked for</p> <p>18 money down in order to deliver product. That was</p> <p>19 not unusual for that time.</p> <p>20 BY MR. FRISCH:</p> <p>21 Q Were you aware that the money was lost?</p> <p>22 MR. MATTHEWS: Object to form; beyond the</p> <p>23 scope of the deposition notice.</p> <p>24 You may answer, if you know.</p> <p>25 THE WITNESS: At the time, I was not</p>	Page 44

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<p>1 aware. In subsequent conversations months later, 2 it came out that they had lost some money as part 3 of the deal. 4 BY MR. FRISCH: 5 Q And is that concerning to you at the time 6 and their ability to fulfill the contract? 7 MR. MATTHEWS: Object to form; beyond the 8 scope of the deposition noticed topics. 9 You may answer. 10 THE WITNESS: I don't recall having those 11 conversations prior to the glove order being 12 fulfilled. 13 BY MR. FRISCH: 14 Q Okay. I'm going to share this. I think 15 we discussed this a little already, but maybe this 16 will refresh your recollection. 17 This is an e-mail from you to Ana Barbur 18 at the Akron Rubber Lab, November 12, 2021. I've 19 labeled it as JNS-Ascension 2. 20 (Exhibit 2 marked for identification.) 21 Q Does this e-mail thread refresh your 22 recollection as to why you only tested, looks 23 like, three lots of the gloves for nitrile 24 content? 25 A I'd like a minute to read the document,</p>	<p>Page 45 1 the record. 2 MR. MATTHEWS: Go ahead, Mike. 3 THE WITNESS: I would say that Rock Fintek 4 did not meet the specifications that were laid out 5 in the attachment and in my e-mails to them on 6 December 7th of 2020. 7 (Exhibit 4 marked for identification.) 8 BY MR. FRISCH: 9 Q Okay. Here is an exhibit. This is 10 labeled JNS-Ascension 4. This document is dated 11 July 23rd, 2021, and it's an e-mail from Adam 12 Swearingin to you and several other people, I 13 guess, at The Resource Group. 14 Are you familiar with Mr. Swearingin? 15 A Yes, sir. I work -- I've worked pretty 16 closely with Adam Swearingin in the past. 17 Q Okay. I apologize -- 18 A And continue to do so. 19 Q -- for butchering his name. 20 A That's okay. 21 Q Okay. And is he -- does he have any 22 expertise in gloves? 23 MR. MATTHEWS: Object to form; beyond the 24 scope of the agreed-upon deposition topics; and 25 object on foundation.</p>
<p>1 please. 2 Q Sure. Take your time. 3 A I've reviewed the document. 4 Q Okay. Does this refresh your recollection 5 at all as to why you chose to only test three of 6 the eight lots you had sent? There were only 7 three lots in total for nitrile content. 8 A No. It does not. 9 Q All right. Let's move on to the next one 10 then. 11 All right. Here's an e-mail. I've 12 labeled the document JNS-Ascension 3. 13 (Exhibit 3 marked for identification.) 14 Q This is an e-mail December 7th, 2020, from 15 you to Bradley Gilling, copied several other 16 parties. 17 Do you recall this -- this e-mail? 18 A Yes, sir. I do. 19 Q In your opinion, did Rock Fintek fulfill 20 the terms of this purchase order? 21 MR. MATTHEWS: Just for the record, Avi, 22 this purchase order, are you referring to the 23 attachment, you know, in the e-mail describing it? 24 MR. FRISCH: Yes. 25 MR. RAKHUNOV: Just note my objection for</p>	<p>Page 46 1 But other than that, if you know, you may 2 answer. 3 THE WITNESS: I would say that Adam 4 Swearingin is more of a glove expert than any of 5 us on this call today and probably 99 percent of 6 the population. 7 BY MR. FRISCH: 8 Q Okay. So he wrote that some of the gloves 9 fit really well and donned easily; others are 10 stiff and extremely difficult to don, often 11 ripping. The stiffer gloves honestly felt more 12 like an older generation vinyl than nitrile. 13 Had you asked him to do an analysis of the 14 gloves that had been delivered? 15 A The Resource Group had requested that, 16 yes. I don't recall if it was myself or others 17 from operations, but we asked him to do this. 18 Q All right. And so in his opinion, some 19 were good and some were bad? 20 MR. MATTHEWS: Object to the form; beyond 21 the scope of the deposition noticed topics. 22 Subject to that, you may answer. 23 THE WITNESS: Adam's statements here, I 24 think, confirm what The Resource Group has -- had 25 suspected, that there were significant</p>

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<p>1 inconsistencies across the gloves which would deem 2 them unusable by our healthcare providers. 3 (Exhibit 5 marked for identification.) 4 Q Here's another e-mail chain. This is 5 between Vince Moccio -- I don't how to pronounce 6 that either, to Dewayne Rader and yourself. This 7 is July 15th, 2021, and labeled JNS-Ascension 5. 8 Do you -- are you familiar with 9 this -- with this e-mail? 10 A Yes, sir. I recall this e-mail. 11 Q Do you know -- I think I asked you this. 12 It says here more than 4500-plus cases were 13 distributed before hearing a complaint. 14 How many gloves are in 4500-plus cases? 15 MR. MATTHEWS: Object to the form; beyond 16 the scope of the notice. 17 Subject to that, you may answer. 18 THE WITNESS: I believe the gloves come 19 100 to a box, 10 boxes per case. 20 BY MR. FRISCH: 21 Q So it's about 450,000 gloves, correct? 22 A Correct. 23 Q And you don't recall when those were 24 distributed? 25 A I do not recall exactly when they were</p>	<p>Page 49 1 form. 2 THE WITNESS: The only way that you could 3 tell where certain products have come from in my 4 opinion would be by the lot number that's assigned 5 to every case carton. 6 BY MR. FRISCH: 7 Q But without looking at every case carton 8 and understanding the lot number, you would have 9 no way to distinguish between the gloves that came 10 from -- with JNS and the gloves that came from 11 Kitchen Winners? 12 MR. MATTHEWS: Objection, beyond the scope 13 of the deposition notice. 14 Subject to that you may answer. 15 THE WITNESS: The lot number would be the 16 only way, and that information would have to be 17 provided by whoever Rock Fintek purchased them 18 from, so... 19 BY MR. FRISCH: 20 Q But you didn't -- let me ask you this, if 21 you know: Do you know if Medline tracked the 22 gloves based on when they were delivered or who 23 delivered them? 24 MR. MATTHEWS: Objection to the form; 25 beyond the scope of the deposition notice.</p>
<p>1 distributed. 2 Q Do you have any way to distinguish between 3 gloves sold to you by JNS and gloves sold to 4 you -- not sold to you, but sold to Rock Fintek 5 and delivered to you and gloves distributed by 6 Kitchen Winners and then sold to you by Rock 7 Fintek? 8 MR. RAKHUNOV: Objection. 9 THE WITNESS: Sorry, can you repeat the 10 question? 11 BY MR. FRISCH: 12 Q Sure. Are you -- let me step back. 13 Are you aware that Rock Fintek had 14 multiple suppliers of Medcare gloves? 15 A I am not aware of that. 16 Q Okay. Do you have any way to track within 17 the collection of gloves that were at the Medline 18 distribution centers, do you have any way to track 19 which ones would have come from my clients, JNS, 20 or which ones would have come from Alex's clients, 21 Kitchen Winners? 22 MR. MATTHEWS: Objection to the form; beyond 23 the scope of the deposition topics. 24 Subject to that -- 25 MR. RAKHUNOV: Objection -- objection to</p>	<p>Page 50 1 Subject to that, yaw may answer. 2 THE WITNESS: I will -- I wouldn't want to 3 speculate on how Medline contracts these specific 4 gloves. But I can tell you they are a very 5 sophisticated supply chain origination. 6 My -- my gut is that they could tell you 7 based upon what is in what receiving side of the 8 warehouse of when that came into the facilities. 9 BY MR. FRISCH: 10 Q Okay. By June -- by the middle of 11 June 2021, was Ascension trying to burn down the 12 stockpile of Medcare gloves? 13 MR. MATTHEWS: Objection to form; beyond the 14 scope of the deposition notice. 15 Subject to that, you may answer. 16 THE WITNESS: I would not say we were 17 attempting to burn down the stockpile of gloves. 18 Coming out of COVID-19, our organization had set 19 out a strategy, as well as other healthcare 20 providers for that matter, of building up pandemic 21 inventory in case we ever incur a horrific 22 pandemic situation like this again. 23 So we wanted to make sure that we had 24 months worth of inventory of PPE items, medical 25 products that are not easily replaceable. So they</p>

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<p>1 were going -- these gloves were going to be part 2 of our pandemic stock inventory. 3 And we planned to turn through them under 4 our normal turn rate for nitrile exam gloves. And 5 as we pushed those out to our healthcare providers 6 and they used them, then we would backfill our 7 glove inventory to make sure that we were 8 maintaining months worth of product moving 9 forward.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q I mean, what was your target for number of 12 months of back inventory that you wanted to have?</p> <p>13 MR. MATTHEWS: Objection to form; beyond 14 the scope of the deposition notice.</p> <p>15 Subject to that, you may answer.</p> <p>16 THE WITNESS: I don't recall specifically 17 on gloves. We had different targets for all kinds 18 of different products of -- within the PPE space, 19 different numbers of months worth of inventory.</p> <p>20 (Exhibit 6 marked for identification.)</p> <p>21 Q Here's an e-mail. I know you're not 22 copied on this one specifically. It's dated 23 JNS-Ascension 6, June 14th, 2021. It's from Vince 24 Moccio to Brooke McKinley.</p> <p>25 Does this refresh your recollection that</p>	Page 53	<p>1 THE WITNESS: Our game plan for these 2 gloves and other PPE that we received during 3 COVID-19 was that it would be used on an as-needed 4 basis, and that we would -- we had suppliers that 5 we buy from on a day-in/day-out basis, and that 6 once those suppliers came back up and had product 7 available, like, this was supplemental inventory, 8 right. But we might consider using these 9 suppliers moving forward.</p> <p>10 But the inventory we were buying was going 11 to be held in our pandemic stock. We would ship 12 it out on an as-needed basis. And then we would 13 replenish behind it so our inventory levels for 14 our pandemic stock, quote -- quotations, that we 15 needed to maintain, in case there was a future 16 pandemic need.</p> <p>17 BY MR. FRISCH:</p> <p>18 Q Okay. By June of 2021, were you 19 interested in continuing to buy Medcare gloves?</p> <p>20 MR. MATTHEWS: Object to the form; beyond 21 the scope of the deposition notice.</p> <p>22 Subject to that, you may answer.</p> <p>23 THE WITNESS: I would say in June of 2021, 24 after receiving close to 200 million gloves, we 25 weren't thinking about purchasing additional</p>	Page 55
<p>1 there was a burn-down plan for Medcare gloves as 2 of June 14th, 2021?</p> <p>3 MR. MATTHEWS: Object to the form; beyond 4 the scope of the deposition notice; calls for 5 speculation; lack of foundation.</p> <p>6 Subject to that, you may answer.</p> <p>7 THE WITNESS: I'm not familiar with this 8 specific e-mail, but I can tell you I think it's 9 poor wording on behalf of the author.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q What do you mean by that?</p> <p>12 MR. MATTHEWS: Same objection.</p> <p>13 Subject to that, you may answer.</p> <p>14 THE WITNESS: I don't believe our 15 organization had any plans to, quote/unquote, burn 16 down inventory on the Medcare gloves. We would 17 use them in our normal use patterns.</p> <p>18 BY MR. FRISCH:</p> <p>19 Q Okay. Was there any desire to use more of 20 the Medcare gloves at any point to sort of -- to 21 reduce the stockpile or -- or are you simply -- 22 would just use them within the normal operations?</p> <p>23 MR. MATTHEWS: Object to the form; beyond 24 the scope of the deposition notice.</p> <p>25 Subject to that, you may answer.</p>	Page 54	<p>1 gloves at that very moment. I believe the 200 2 million gloves we had estimated would be well 3 north of six months of usage for our provider 4 base, but we were good with that based upon our 5 pandemic stock need to build that up.</p> <p>6 BY MR. FRISCH:</p> <p>7 Q Okay.</p> <p>8 MR. FRISCH: I think that's all I have 9 right now. I will turn it over to Phil or Alex, 10 whoever is going next.</p> <p>11 MR. RAKHUNOV: As of this moment, I don't 12 have anything, but I may if Mr. Sperber has some 13 questions and I follow.</p> <p>14 MR. SPERBER: Can I just have a two-minute 15 break just to go over my notes?</p> <p>16 MR. MATTHEWS: Yeah. Absolutely.</p> <p>17 (Whereupon a break was had.)</p> <p>18 EXAMINATION</p> <p>19 BY MR. SPERBER:</p> <p>20 Q Good morning, Mr. Elstro. My name is 21 Alexander Sperber. I am the attorney for 22 Plaintiff and Counter-Defendant Kitchen Winners as 23 well as Third-Party Defendants Joseph Mendlowitz 24 and Adorama, Inc. I just have a few follow-up 25 questions for you after Mr. Frisch's questioning.</p>	Page 56

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<p>1 When Ascension or The Resource Group, 2 excuse me, entered into its purchase order with 3 Rock Fintek in December of 2020 for 200 million 4 gloves, was there a time schedule by which you 5 were expecting them to deliver those gloves?</p> <p>6 A Yes. We did lay out a schedule if I 7 recollect correctly from the e-mail that was shown 8 earlier. I believe that was mentioned within 9 there.</p> <p>10 Q Okay. And was that -- let me see if I can 11 find that. Give me one second.</p> <p>12 Can you see a document in front of you 13 right now that's marked JNS-Ascension 3?</p> <p>14 A I do not.</p> <p>15 Q No? Let me click share and if that makes 16 it work.</p> <p>17 If you look -- you can see an e-mail, 18 correct?</p> <p>19 A That is correct.</p> <p>20 Q Okay. Yeah. So if you'll look on that 21 e-mail, I believe it says that right now the plan 22 is to deliver 40 million gloves per month for five 23 consecutive months.</p> <p>24 Was that your understanding of -- of the 25 arrangement?</p>	Page 57	<p>1 the needs that occurred because of COVID-19.</p> <p>2 Although, I will also add that we also</p> <p>3 could be flexible with them on the -- that one</p> <p>4 piece, probably the schedule, just because we knew</p> <p>5 what was going on across the world with supply</p> <p>6 chain and our deals with -- dealings with Rock</p> <p>7 Fintek and other medical device and product</p> <p>8 manufacturers.</p> <p>9 BY MR. SPERBER:</p> <p>10 Q Okay. You also mentioned earlier, I 11 guess, you had -- you had divided up potential 12 future business with Rock Fintek into short-term 13 and long-term business.</p> <p>14 Do you recall that?</p> <p>15 A Yes. I recall that conversation.</p> <p>16 Q And you had mentioned -- I guess, you had 17 defined short-term business as business concerning 18 the COVID-19 pandemic specifically; is that 19 correct?</p> <p>20 A Yes. I would say my short-term</p> <p>21 conversation was looking around that time frame of</p> <p>22 when COVID was more prevalent throughout the</p> <p>23 United States, so in that 2020, 2021, 2022 time</p> <p>24 frame when we had different needs arising based</p> <p>25 upon shortages that were caused by the pandemic.</p>		Page 59
<p>1 A Yes.</p> <p>2 Q And to your knowledge, did Rock Fintek 3 roughly hold to that schedule?</p> <p>4 A Yes.</p> <p>5 MR. RAKHUNOV: Objection.</p> <p>6 BY MR. SPERBER:</p> <p>7 Q Would it have been okay with Ascension if 8 Rock Fintek had not delivered any gloves until 9 June of 2021?</p> <p>10 MR. MATTHEWS: Object to the form; beyond</p> <p>11 the scope of the deposition notice.</p> <p>12 Subject to that, you may answer.</p> <p>13 THE WITNESS: It didn't occur, so I would</p> <p>14 have to speculate. But if they didn't deliver</p> <p>15 gloves until, I believe, you said June, if they</p> <p>16 didn't deliver gloves, any of the gloves until</p> <p>17 June, that would have been an issue. Yes.</p> <p>18 BY MR. SPERBER:</p> <p>19 Q Okay. So the delivery schedule was 20 important to -- to you?</p> <p>21 MR. MATTHEWS: Objection; beyond the scope</p> <p>22 of the deposition.</p> <p>23 You may answer.</p> <p>24 THE WITNESS: I would say yes, the</p> <p>25 delivery schedule was important to us based upon</p>	Page 58	<p>1 Q So in your mind, that -- that time frame 2 cuts off somewhere in 2022?</p> <p>3 A I would state that most of our pandemic,</p> <p>4 what we called at the time, spot-buy purchases so</p> <p>5 incremental inventory, starts to tail off during</p> <p>6 2022.</p> <p>7 Q Okay. Do you know specifically which 8 kinds of pandemic-related supplies Rock Fintek 9 would have been able to supply you with?</p> <p>10 MR. MATTHEWS: Objection, beyond the scope</p> <p>11 of the notice.</p> <p>12 But subject to that, you may answer.</p> <p>13 THE WITNESS: So Rock Fintek provides us</p> <p>14 with three-ply masks, KN-95s, isolation gowns, and</p> <p>15 nitrile exam gloves during the COVID-19 time</p> <p>16 frame. So I would assume that they would still</p> <p>17 have those connections based on sourcing those</p> <p>18 individual products.</p> <p>19 Outside of that, I don't believe that they</p> <p>20 had delivered other medical products to other</p> <p>21 customers. I'm not quite sure about, I guess,</p> <p>22 other customers. But for us, we had not really</p> <p>23 talk about other products with them.</p> <p>24 BY MR. SPERBER:</p> <p>25 Q And after your dispute with Rock Fintek</p>		Page 60

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<p>1 arose in, I guess, it was July of 2021, if Rock 2 Fintek had made some efforts to address 3 Ascension's concerns or to make Ascension whole, 4 would you have still considered them eligible to 5 take on future related pandemic supply needs?</p> <p>6 A It's speculative. As we discussed 7 earlier, as I mentioned earlier, we had talked to 8 them about being a long-term supplier. And the 9 fact of the matter is we've not been made whole in 10 this situation, so I can't really state.</p> <p>11 I think if -- if we would have been made 12 whole and they would have, you know, been able to 13 clear the major hurdles of being -- you know, 14 getting FDA approved and also going to bat and 15 being priced competitively with some of the large 16 players in this medical space, we might have. I 17 can't say for certain.</p> <p>18 Q Okay. You -- you mentioned earlier that 19 Rock Fintek delivered to you, I think, was 196 20 million, thereabout, Medcare gloves.</p> <p>21 Is that roughly accurate?</p> <p>22 A Yes. I would say that was -- that is 23 roughly accurate.</p> <p>24 Q And I think you also mentioned that one 25 point in time, they delivered a different brand of</p>	Page 61	<p>1 MR. RAKHUNOV: I do have just a couple of 2 quick follow-ups.</p> <p>3 EXAMINATION</p> <p>4 BY MR. RAKHUNOV:</p> <p>5 Q Mr. Elstro, so you've been asked a few 6 questions about a potential long-term relationship 7 with Rock Fintek.</p> <p>8 Had the hurdles that you described, had 9 Rock Fintek been able to clear those hurdles, 10 would a successful track record with Ascension for 11 prior transactions have put Rock Fintek in a 12 better position to compete for long-term business?</p> <p>13 MR. FRISCH: Objection.</p> <p>14 MR. SPERBER: Objection.</p> <p>15 THE WITNESS: Once again, I would have to 16 speculate, right. The fact of the matter is, 17 unfortunately, Rock Fintek did not deliver the 200 18 million gloves and we've not been made whole in 19 the situation either.</p> <p>20 If all 200 million would have been 21 delivered and Rock Fintek had cleared the FDA 22 hurdles to be an everyday medical device, medical 23 products supplier, and they could be priced 24 competitively, we would have considered them in 25 subsequent RF Ps.</p>	Page 63
<p>1 gloves as well.</p> <p>2 Can you clarify that?</p> <p>3 A Yeah. I recollect that they delivered a 4 brand of gloves called LuvMed.</p> <p>5 Q Whatever happened with those LuvMed 6 gloves?</p> <p>7 A The LuvMed gloves, from what I recall, 8 were actually delivered through a Medline 9 warehouse. We weren't aware of them. They were 10 delivered by mistake, in error. But documentation 11 was subsequently provided stating that they were 12 ASTM D6319-rated. They were nitrile gloves, FDA 13 approved. Rock Fintek was able to provide that 14 documentation.</p> <p>15 And based upon their statements that they 16 were, we decided to keep the gloves and pay for 17 them.</p> <p>18 Q Okay. And that was outside of the 196 19 million Medcare gloves?</p> <p>20 A I believe that is the case. Yes.</p> <p>21 Q Okay. Give me one moment. I think I 22 might be done.</p> <p>23 MR. SPERBER: I think those are the only 24 questions I have for you. So thank you. Unless 25 Phil has any questions.</p>	Page 62	<p>1 BY MR. RAKHUNOV:</p> <p>2 Q Okay. And I guess, let me ask a slightly 3 different question.</p> <p>4 So putting aside, you know, specifically 5 what happened here with the Medcare gloves, if two 6 suppliers compete for Ascension's or The Resource 7 Group's business and one has a prior track record 8 with Ascension for delivering products and the 9 other is -- is a brand new vendor, does the prior 10 track record have -- give the vendor an advantage 11 with Ascension in your --</p> <p>12 MR. FRISCH: Objection.</p> <p>13 BY MR. RAKHUNOV:</p> <p>14 Q -- in your experience?</p> <p>15 MR. MATTHEWS: Objection, beyond the scope 16 of the deposition notice.</p> <p>17 But subject to that, you may answer.</p> <p>18 THE WITNESS: I would say if all things 19 are considered equal, I would think that having a 20 past working business relationship would give a 21 leg up to one supplier versus another.</p> <p>22 BY MR. RAKHUNOV:</p> <p>23 Q Okay. And you were also asked about -- in 24 the beginning of the deposition about the letter 25 from Lewis Rice.</p>	Page 64

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1	Do you remember that?	Page 65	1	MR. MATTHEWS: We'll want to read.
2	A Yes. I remember that.		2	(Whereupon the proceedings were concluded at 10:30
3	Q And forgive me if this was already asked,		3	a.m. CST)
4	I just don't remember if I heard it.		4	
5	But to your knowledge, has Ascension given		5	
6	any release or has -- otherwise or a covenant not		6	
7	to sue with respect to the -- the gloves here to		7	
8	Rock Fintek?		8	
9	A I -- I don't have firsthand knowledge of		9	
10	that. With my role with the organization, there		10	
11	are lawsuits that I probably have no knowledge of		11	
12	whatsoever. So I -- I can't speak to has		12	
13	Ascension sued Rock Fintek or have they not. I'm		13	
14	not aware of any lawsuits, but I also might not be		14	
15	notified if there was one.		15	
16	Q And I'm sorry, I may have -- I may have		16	
17	spoken.		17	
18	Not -- I wasn't asking if there was a		18	
19	lawsuit, but has Ascension essentially committed		19	
20	to use or give Rock Fintek some release with		20	
21	respect to any of the claims concerning the gloves		21	
22	delivered to Ascension, if you know?		22	
23	MR. MATTHEWS: Phil, could -- this is		23	
24	Taylor. Could you just -- you know, Mike's not a		24	
25	lawyer and I don't know if he knows what a release		25	
		Page 66		
1	is. Could you just try to rephrase in a way that		1	CERTIFICATE OF REPORTER
2	he could answer from a lay perspective?		2	
3	BY MR. RAKHUNOV:		3	I, KARISA J. EKENSEAIR, a Registered
4	Q To your knowledge, has Ascension given		4	Merit Reporter, Registered Professional Reporter,
5	up -- well, I don't want to ask anything that		5	and Certified Court Reporter do hereby
6	might implicate attorney-client privilege, so you		6	certify that the witness whose testimony appears
7	know, withdrawn. I -- that's -- that's not		7	in the foregoing deposition was duly sworn by me;
8	something we need to follow up on.		8	that the testimony of said witness was taken by me
9	MR. RAKHUNOV: I don't have anything		9	to the best of my ability and thereafter reduced
10	further, Mr. Elstro. Thank you for your time this		10	to typewriting under my direction; that I am
11	morning.		11	neither counsel for, related to, nor employed by
12	THE WITNESS: Thank you.		12	any of the parties to the action in which this
13	MR. FRISCH: Thank you, sir.		13	deposition was taken, and further that I am not a
14	THE REPORTER: Are we ready to go off the		14	relative or employee of any attorney or counsel
15	record?		15	employed by the parties thereto, nor financially
16	MR. MATTHEWS: Yes.		16	or otherwise interested in the outcome of this
17	THE REPORTER: Could I get transcript		17	action.
18	orders, please?		18	<i>Karisa Ekenseair</i>
19	MR. FRISCH: Yeah. I'm going to order.		19	Karisa J. Ekenseair, RMR, RPR, CCR-1507
20	MR. SPERBER: I will as well.		20	
21	MR. RAKHUNOV: I will take a copy.		21	
22	MR. MATTHEWS: And we will take a copy as		22	
23	well for the witness.		23	
24	THE REPORTER: Okay.		24	
25	(Off-the-record discussion.)		25	

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1 DECLARATION UNDER PENALTY OF PERJURY Page 69

2

3 I, MICHAEL ELSTRO, do hereby certify:

4 That I have read the foregoing deposition;

5 That I have made such changes in form and/or

6 substance to the within deposition as might be necessary

7 to render the same true and correct;

8 That having made such changes thereon, I hereby

9 subscribe my name to the deposition.

10 I declare, under penalty of perjury, that the

11 foregoing is true and correct.

12

13 Executed this _____ day of

14 _____, 2023, at _____,

15 (MONTH) (CITY)

16 _____.

17 (STATE)

18 _____

19 MICHAEL ELSTRO

20

21

22

23

24

25

1 ERRATA SHEET Page 70

2 INSTRUCTIONS: After reading the transcript of testimony, please note any change,

3 addition or deletion on this sheet. If you are in possession of the original transcript,

4 DO NOT make any marks or notations directly on the transcript.

5

6 Page Line Correction Made Reason for Correction

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